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12 LEASING, CO. L.P.

13 *[Additional Counsel on following page]*

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 LAUREN MORGAN and ARDAVAN
DAVARI, individually and on behalf of
17 all others similarly situated,

18 Plaintiffs,

19 v.

20 PENSKE LOGISTICS, LLC, and
21 PENSKE TRUCK LEASING, CO.
L.P.,

22 Defendants.
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Case No. 8:23-cv-01750-JWH (KESx)

**JOINT STIPULATION FOR
PROTECTIVE ORDER**

Complaint Filed: September 19, 2023
Trial Date: None
District Judge: Hon. John W. Holcomb
Courtroom 9D, Santa Ana
Magistrate Judge: Hon. Karen E. Scott
Courtroom 6D, Santa Ana

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1 **1. GENERAL**

2 1.1 Purpose and Limitations. Discovery in this action is likely to involve
3 production of confidential, propriety, or private information for which special
4 protection from public disclosure and from use for any purpose other than prosecuting
5 this litigation may be warranted. Accordingly, the parties hereby stipulate to and
6 petition the Court to enter the following Stipulated Protective Order. The parties
7 acknowledge that this Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and use
9 extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as set
11 forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them
12 to file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the court to file material under seal.

15 1.2 Good Cause Statement. This action is likely to involve the disclosures of
16 (1) material protected under the constitutional, statutory, or common law right to
17 privacy and (2) confidential business, financial, propriety, personnel, policy, and
18 payroll information for which special protection from public disclosure and from use
19 for any purpose other than prosecution of this action is warranted. Such confidential
20 and propriety materials and information consist of, among other things, confidential
21 information regarding current and former employees; confidential business or
22 financial information; information regarding confidential business practices; other
23 confidential commercial information (including information implicating privacy rights
24 of third parties); information otherwise generally unavailable to the public; and
25 information that may be privileged or otherwise protected from disclosure under state
26 or federal statutes, court rules, case decisions, or common law. Accordingly, to
27 expedite the flow of information, to facilitate the prompt resolution of disputes over
28 confidentiality of discovery materials, to adequately protect information the parties are

entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record on this case.

2. DEFINITIONS

2.1 Action: Action refers to the above referenced matter titled *Lauren Morgan and Ardavan Davari v. Penske Truck Leasing Co., L.P. and Penske Truck Leasing, Co. L.P.*; Case No. 8:23-cv-01750-JWH (KESx).

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored, or maintained) or tangible things that have not been made public or are not otherwise available or accessible in the public domain and that qualify for protection under Federal Rule of Civil Procedure 26(c) or concern or relate to the confidential or proprietary information of (1) Defendant Penske Truck Leasing Co., L.P.; (2) Defendant Penske Logistics, LLC; (3) Plaintiffs *Lauren Morgan and Ardavan Davari*; or (4) any third parties, the disclosure of which information is likely to have the effect of causing harm to the competitive position of Defendants or to the organization or persons from whom the information was obtained or the party's privacy. Confidential Information also includes private information pertaining to Defendants' or a third party's employees, for which Defendants or third parties have a duty to maintain the confidentiality of such information. Information designated Confidential may be used only in connection with this proceeding and not for any other purpose. Such information may not be disclosed to anyone except as provided in this

1 Order.

2 2.4 Counsel: “Counsel” means Outside Counsel of Record and House
3 Counsel (as well as their support staff), including, but not limited to:

4 1) Zigler Law Group, LLC and its respective support staff and other
5 employees who are not employed by a Party and to whom it is
6 necessary to disclose Confidential Information for the purpose of
7 this action;

8 2) Ogletree, Deakins, Nash, Smoak & Stewart, P.C. and their
9 respective support staff and other employees who are not employed
10 by a Party and to whom it is necessary to disclose Confidential
11 Information for the purpose of this action;

12 2.5 Designating Party: a Party or Non-Party that designates information or
13 items that it produces in disclosures or in responses to discovery as
14 “CONFIDENTIAL.”

15 2.6 Disclosure or Discovery Material: all items or information, regardless
16 of medium or manner in which is generated, stored, or maintained (including amount
17 other things, testimony, transcripts, and tangible things), that are produced or
18 generated in disclosures or responses to discovery in this matter.

19 2.7 Expert: a person with specialized knowledge or experience in a matter
20 pertinent to the litigation who has been retained by a Party or its counsel to serve as
21 an expert or as a consultant in the Action.

22 2.8 House Counsel: attorneys who are employees of a party to this Action
23 House Counsel does not include Outside Counsel of Record or any other outside
24 counsel.

25 2.9 Non-Party: any natural person, partnership, corporation, association, or
26 legal entity not named as a Party to this action.

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2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm that has appeared on behalf of that party, including support staff.

2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

Once a case proceeds to trial, all of the court-filed information to be introduced that was previously designated as CONFIDENTIAL or maintained pursuant to this

protective order used or introduced as an exhibit at trial becomes public and will be presumptively available to all members of the public, including the press, unless compelling reasons supported by specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber that case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party’s attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations.

Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or

1 produced.

2 Designation in conformity with this Order requires:

3 (a) for information in documentary form (e.g., paper or electronic
4 documents, but excluding transcripts of depositions or other pretrial or trial
5 proceedings), that the Producing Party affix, at a minimum, the legend
6 “CONFIDENTIAL” (hereafter “CONFIDENTIAL legend”), to each page that
7 contains protected material. If only a portion or portions of the material on a page
8 qualifies for protection, the Producing Party also must clearly identify the protected
9 portion(s) (e.g., by making appropriate markings in the margins).

10 A Party or Non-Party that makes original documents available for inspection
11 need not designate them for protection until after the inspecting Party has indicated
12 which documents it would like copied and produced. During the inspection and before
13 the designation, all of the material made available for inspection shall be deemed
14 “CONFIDENTIAL.” After the inspecting party has identified the documents it wants
15 copied and produced, the Producing Party must determine which documents, or
16 portions thereof, qualify for protection under this Order. Then, before producing the
17 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”
18 to each page that contains Protected Material. If only a portion or portions of the
19 material on a page qualifies for protection, the Producing Party must clearly identify
20 the protected portion(s) (e.g., by making appropriate markings in the margins).

21 (b) for testimony given in depositions that the Designating Party
22 identify the Disclosure of Discovery Material on the record, before the close of the
23 deposition.

24 (c) for information produced in some form other than documentary
25 and for any other tangible items, that the Producing Party affix in a prominent place
26 on the exterior of the container or containers in which the information is stored the
27 legend “CONFIDENTIAL.” If only a portion or portions of the information warrants
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1 protection, the Producing Party, to the extent practicable, shall identify the protected
2 portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
4 failure to designate qualified information or items does not, standing alone, waive the
5 Designating Party's right to secure protection under this Order for such material. Upon
6 timely correction of designation, the Receiving Party must make reasonable efforts to
7 assure that the material is treated in accordance with the provisions of this Order.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court's Scheduling
11 Order.

12 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
13 resolution process under Local Rule 37.1, et seq. Any discovery motion must strictly
14 comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3.

15 6.3 Burden. The burden of persuasion in any such challenge proceeding
16 shall be on the Designating Party. Frivolous challenges, and those made for an
17 improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
18 other parties) may expose the Challenging Party to sanctions. Unless the Designating
19 Party has waived or withdrawn the confidentiality designation, all parties shall
20 continue to afford the material in question the level of protection to which it is entitled
21 under the Producing Party's designation until the Court rules on the challenge.

22 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is
24 disclosed or produced by another Party or by a Non-Party in connection with this
25 Action only for prosecuting, defending, or attempting to settle this Action. Such
26 Protected Material may be disclosed only to the categories of persons and under the
27 conditions described in this Order. When the Action has been terminated, a Receiving
28 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information it item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition

1 testimony or exhibits to depositions that reveal Protected Material may be separately
 2 bound by the court reporter and may not be disclosed to anyone except as permitted
 3 under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel,
 5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
 7 **PRODUCED IN OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation
 9 that compels disclosure of any information or items designated in this Action as
 10 “CONFIDENTIAL,” that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification
 12 shall include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or
 14 order to issue in the other litigation that some or all of the material covered by the
 15 subpoena or order is subject to this Protective Order. Such notification shall include
 16 a copy of this Stipulation Protective Order; and

17 (c) Cooperate with respect to all reasonable procedures sought to be
 18 pursued by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with
 20 the subpoena or court order shall not produce any information designated in this action
 21 as “CONFIDENTIAL” before a determination by the court from which the subpoena
 22 or order issued, unless the Party has obtained the Designating Party’s permission. The
 23 Designating Party shall bear the burden and expense of seeking protection in that court
 24 of its confidential material and nothing in these provisions should be construed as
 25 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
 26 directive from another court.

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1 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
 2 **PRODUCED IN THIS LITIGATION**

3 (a) The terms of this Order are applicable to information produced by a Non-
 4 Party in this Action and designated as “CONFIDENTIAL.” Such information
 5 produced by Non-Parties in connection with this litigation is protected by the remedies
 6 and relief provided by this Order. Nothing in these provisions should be construed as
 7 prohibiting a Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to
 9 produce a Non-Party’s confidential information in its possession, and the Party is
 10 subject to an agreement with the Non-Party not to produce the Non-Party’s
 11 confidential information, then the Party shall:

12 (1) promptly notify in writing the Requesting Party and the Non-Party
 13 that some or all of the information requested is subject to a confidentiality agreement
 14 with a Non-Party.

15 (2) promptly provide the Non-Party with a copy of the Stipulated
 16 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 17 specific description of the information requested; and

18 (3) Make the information requested available for inspection by the
 19 Non-Party, if requested.

20 (c) If the Non-Party fails to seek a protective order from this Court within
 21 14 days of receiving the notice and accompanying information, the Receiving Party
 22 may produce the Non-Party’s confidential information responsive to the discovery
 23 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 24 not produce any information in its possession or control that is subject to the
 25 confidentiality agreement with the Non-Party before a determination by the Court.
 26 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
 27 of seeking protection in this Court of its Protected Material.

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1 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

2 If a Receiving Party learns that by inadvertence or otherwise, it has disclosed
 3 Protected Material to any person or in any circumstance not authorized under this
 4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
 5 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
 6 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
 7 persons to whom unauthorized disclosures were made of all the terms of this Order,
 8 and (d) request such person or persons to execute the “Acknowledgement and
 9 Agreement to Be Bound” that is attached hereto as Exhibit A.

10 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 11 **PROTECTED MATERIAL**

12 When a Producing Party gives notice to Receiving Parties that certain
 13 inadvertently produced material is subject to a claim of privilege or other protection,
 14 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 15 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 16 may be established in an e-discovery order that provides for production without prior
 17 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e) insofar as the
 18 parties reach an agreement on the effect of disclosure of a communication or
 19 information covered by the attorney-client privilege or work product, the parties
 20 may incorporate their agreement in the stipulated protective order submitted to the
 21 Court.

22 **12. MISCELLANEOUS**

23 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 24 person to seek its modification by the Court in the future.

25 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 26 Protective Order, no Party waives any right it otherwise would have to object to
 27 disclosing or producing any information of item on any ground not addressed in this
 28 Stipulated Protective Order. Similarly, no Party waives any right to object on any

1 ground to use in evidence of any of the material covered by this Protective Order.

2 12.3 Filing Protective Material. A Party that seeks to file under seal any
3 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
4 only be filed under seal pursuant to a court order authorizing the sealing of the specific
5 Protected Material at issue; good cause must be shown in the request to file under seal.
6 If a Party's request to file Protected Material under seal is denied by the Court, then
7 the Receiving Party may file the information in the public record unless otherwise
8 instructed by the Court.

9 **13. FINAL DISPOSITION**

10 After the final disposition of this Action, within 60 days of a written request by
11 the Designating Party, each Receiving Party must return all Protected Material to the
12 Producing Party or destroy such material. As used in this subdivision, "all Protected
13 Material" includes all copies, abstracts, compilations, summaries, and any other format
14 reproducing or capturing any of Protected Material. Whether the Protected Material
15 is returned or destroyed, the Receiving Party must submit a written certification to the
16 Producing Party (and, if not the same person or entity, to the Designating Party) by the
17 60 day deadline that (1) identifies (by category, where appropriate) all the Protected
18 Material that was returned or destroyed and (2) affirms that the Receiving Party has
19 not retained any copies, abstracts, compilations, summaries or any other format
20 reproducing or capturing any of the Protected Material. Notwithstanding this
21 provision, counsel are entitled to retain an archival copy of all pleadings, motion
22 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
23 deposition and trial exhibits, expert reports, attorney work product, and consultant and
24 expert product, even if such materials contain Protected Material. Any such archival
25 copies that contain or constitute Protected Material remain subject to this Protective
26 Order as set forth in Section 4 (DURATION).

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1 **14. VIOLATION OF ORDER**

2 Any violation of this Order may be punished by any and all appropriate
3 measures including, without limitation, contempt proceedings and/or monetary
4 sanctions.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

6 DATED: March 29, 2024

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

9 By: /s/ Justin M. Dean

10 Evan R. Moses
11 Madeleine K. Lee
12 Noel M. Hernandez
13 Justin M. Dean

Attorneys for Defendants
PENSKE LOGISTICS, LLC and PENSKE
TRUCK LEASING, CO. L.P.

14 DATED: March 29, 2024

ZIGLER LAW GROUP, LLC

16 By: /s/ Nidya S. Gutierrez

17 Aaron M. Zigler
18 Nidya S. Gutierrez

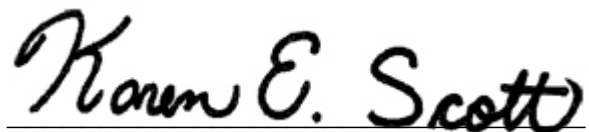
19 Attorneys for Plaintiffs
20 LAUREN MORGAN and ARDAVAN
21 DAVARI

22 **ORDER**

23 GOOD CAUSE APPEARING, the Court hereby approves this Stipulation and
24 Protective Order.

25 **IT IS SO ORDERED.**

26 Dated: April 1, 2024



27 THE HON. KAREN E. SCOTT

28 Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understands the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *Lauren Morgan and Ardavan Davari v. Penske Truck Leasing Co., L.P. and Penske Truck Leasing, Co. L.P.*; Case No. 8:23-cv-01750-JWH (KESx). I agree to comply with and to be bound by all the terms of this Stipulation Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulation Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulation Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print of type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulation Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____